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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/542,674	04/01/2000	Graham M. Rouse JR.		5964

7590 02/12/2002  
Graham M Rouse Jr  
430 Queen Street  
Columbia, SC 29205

EXAMINER

FRANCIS, FAYE

ART UNIT	PAPER NUMBER
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3712

DATE MAILED: 02/12/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/542,674

Applicant(s)

ROUSE, GRAHAM M.

Examiner

Faye Francis

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 18-37 is/are pending in the application.
- 4a) Of the above claim(s) 24,27,33 and 34 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 18-23,25,26,28-32 and 35-37 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 April 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 10.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. Claims 24, 27 and 33-34 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made without traverse in Paper No. 6.

Accordingly, claims 18-23, 25-26, 28-32 and 35-37 will be further examined on the merit.

### ***Drawings***

2. The drawings are objected to under 37 CFR 1.83(a) because they fail to show the tape in claim 31 as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Specification***

3. The amendment filed on 12/13/01 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows:

1] the amendment to claim 18, subsection B and claim 35, section B subsection 1.

2] the positioning means that include one or more positioning means other than end user applied spray adhesive to overlapping cut expandable matrix frameworks in claims 18 and 35.

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3] the use of friction enhancing treatment in claim 28.

4] framing material that is elastic in claim 32.

5] the entire claims 36-37.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 18, 32 and 35-37 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention, i.e., new matter.

The specification as originally filed does not provide support for the teaching of the inflatable chambers is comprised of at least one inflatable chamber, the positioning means that include one or more positioning means other than end user applied spray adhesive to overlapping cut expandable matrix frameworks as now recited in claims 18 and 35, the use of friction enhancing treatment as now recited in claim 28, framing material that is elastic as now recited in claim 32 and the entire claims 36-37.

Accordingly these limitations now added to the claims are considered to be New Matter. Applicant is required to cancel the new matter in the response to this office action.

Applicant is required to cancel the new matter in the reply to this Office Action.

6. Claims 23 and 26 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as

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to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. It is not clear what the applicant refers to as a gate.

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 18-23, 25-26, 28-32 and 35-37 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims are replete with indefinite language that is too numerous to point out in every instance. The examples set forth below are intended to assist the applicant in making corrections wherever necessary, but not specifically pointed to.

In claim 18 the claim language is confusing since it is not clear whether "expandable matrix frameworks" in line 16 is the same framework as in line 2 or is an additional one.

Claim 19: sub section A is inconsistent with subsection B3 in claim 18 which claim 19 depends from. Additionally, sub section A and sub section B line 1 are also inconsistent and contradict itself. This terminology is repeated throughout the claims. Correction is required.

Claim 21 is confusing subsection C appears to be redundant within the claim and also the entire claim appears to be redundant with respect to claim 18.

Claim 23 is indefinite since all that the applicant considers to be encompassed by the word "gate" cannot be determined. This terminology is repeated throughout the claims.

With respect to claim 25: it is not clear what other extension the applicant is referring to? Note also claim 26 in this regard. Additionally, it is not clear how the method step of passing at least one neck of the inflatable chambers through at least one anchor aperture in lines 3-4 are intended to further structurally limit the claimed balloon display.

Claims 29-30: it is not clear how the method step of treating the framing material in lines 3-4 are intended to further structurally limit the claimed balloon display.

Claim 30 is indefinite since it is not clear how the word "especially" in line 3, is intended to further limit the device.

Claim 28 is indefinite since all that the applicant considers to be encompassed by the phrase "friction enhancing treatment" cannot be determined

Several expressions recited in the claims lack sufficient antecedent bases. For example only, the phrase "the pneumatic pressure" in line 14 of claim 18 lacks proper antecedent basis. In another example only, the phrase "the use" in line 3 of claim 31 also lacks proper antecedent basis. These expressions make it difficult to determine what is or not in the claims. Accordingly the applicant is requested to review all of the claims for the purpose of making corrections wherever appropriate but not specifically pointed to, in order to provide appropriate antecedents and to ensure consistency in the numbers of specific elements recited in the claims.

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In view of the examples above, the applicant is required to carefully review all of the claims in order to correct those having the same defects but not specifically pointed to.

***Claim Rejections - 35 USC § 102***

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 18-23, 25-26, 28-30 are rejected under 35 U.S.C. 102(b) as being anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Groh in view of Lovik.

Groh discloses in Figs 1-5, a balloon display 10 including at least one framework 11, a plurality of apertures [an upper and a lower member], a plurality of inflatable chamber [tubular bodies 14] being at least partially inflated, a first and second sets of the inflatable chambers [Fig 1], and positioning means [strings 16] which does not include one or more positioning means other than the pneumatic pressure of the inflatable chambers against the circumscribing framework and other than end user applied spray adhesive to overlapping cut expandable matrix frameworks as recited in claim 18. Additionally Groh discloses at least one anchor aperture [Fig 1] as recited in claim 22.

Should <sup>Groh</sup>~~Lovik~~ be later deemed not to meet claims 18-23 because <sup>G Rdn</sup>~~Lovik~~ does not disclose the anchor aperture, Lovik is cited to show a desirability to connect a balloon to

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a frame via an anchor aperture [bore 140a]. Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made, in view of Lovik to provide the device of Groh with the anchor aperture in order to further secure the position of the tubular bodies.

***Claim Rejections - 35 USC § 103***

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Groh.

Groh discloses most of the features of this claim as applied to claims 18-23, 25-26, 28-30 above but does not disclose a tape.

Groh already discloses the use of attaching/positioning means (strings) for attaching the device to the external structure [frame]. Furthermore, it is very well known in the art that a structure may be secured to another structure using tapes. Also, it is very well known in the art that strings and tapes are well known alternate types of attaching/ positioning means used to attach/position one structure to another structure. Therefore, the particular type of attaching/ positioning means claimed by applicant, absent any criticality, is only considered to be a choice of engineering skill, choice or design because 1) neither non-obvious nor unexpected results will be obtained if tapes is used instead of strings to secure the first and second sets of the inflatable chambers to the external structure [frame] as long as the inflatable chambers is secured to the



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external structure as already suggested by Ghor, 2) the tape claimed by applicant and the strings used by Ghor are well known alternate types of attaching/positioning means which will perform the same function, if one is replaced with the other, of attaching two structures together, and 3) the use of the tapes by applicant is considered to be nothing more than the use of one of numerous and well known alternate types of attaching/positioning means that a person having ordinary skill in the art would have been able to provide using routine experimentation in order to attach the device to the external structure as already suggested by Ghor.

13. Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over Groh.

Groh discloses most of the features of this claim as applied to claims 18-23, 25-26, 28-30 above but does not disclose framing material that is elastic.

With respect to the use of a elastic material to make the frame, absent any criticality, is only considered to be an obvious modification of the material to make the frame by Ghor for the purpose of making the devices more durable. Such a modification is only considered to be the use of an "optimum" or "preferred" material that a person having ordinary skill in the art at the time the invention was made using routine experimentation would have found obvious to provide to make the body/base disclosed by Ghor since it has been held to be a matter of obvious design choice and within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use of the invention. In re Leshin, 125 USPQ 416.

14. Claim 35 is rejected under 35 U.S.C. 103(a) as being unpatentable over Groh in view of Skistimas.

Groh discloses most of the features of this claim as stated in paragraph 10 above but does not disclose interlocking tabs.

Skistimas teaches the concept of providing interlocking tabs. It would have been obvious to provide Ghor's device with the tabs as taught by Skistimas in order to have even more sturdy connection.

The noted examples of indefiniteness notwithstanding, the Prior Art of record does not appear to show a balloon display having all of the elements of the claims 36-37. Accordingly, claims having the same scope as claims 36-37 if rewritten to overcome the rejection(s) under 35 U.S.C. 112, first and second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims, if presented for examination in response to this Office Action, would be considered to avoid the prior art.

### ***Response to Arguments***

15. Applicant's arguments with respect to claims 18-37 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

16. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within

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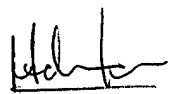
TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Faye Francis whose telephone number is (703) 306-5941. The examiner can normally be reached on 6:30 AM - 3:00 PM Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jacob Ackun can be reached on (703) 308-3867. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3579 for regular communications and (703) 305-3579 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

FF  
February 7, 2002

  
Jacob K. Ackun  
Primary Examiner